

**STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Bulletin 2008-09-CU

In the matter of

Deferred Compensation Arrangements
and Related Investments

**Issued and entered
this 9th day of August 2008
By Ken Ross
Commissioner**

This bulletin supersedes OFIR Bulletin No. 2007-05-CU, dated May 1, 2007.

The purpose of this bulletin is to clarify permissible employee deferred compensation arrangements and related investment limitations to ensure safe and sound programs under Section 401(2)(ss) of the Michigan Credit Union Act, 2003 PA 215, as amended, MCL 490.401(2)(ss). This section permits domestic credit unions to purchase insurance policies and other investment products to fund deferred compensation arrangements for their employees. This section also states, "If the deferred compensation arrangement does not present a risk to the safety and soundness of the domestic credit union, the purchase of those investment products is not subject to the limitations of this Act."

For purposes of this section, the Commissioner interprets a deferred compensation arrangement to include any arrangement in which an employee receives future economic benefits. OFIR believes such future economic benefits may include, for example, health care, life insurance, disability income replacement plans and retirement plans. These arrangements may be qualified or nonqualified retirement plans under the Internal Revenue Code, including those fully or partially funded by the credit union.

OFIR recognizes that credit unions must offer competitive benefits to retain competent, professional personnel. However, prior to offering these types of arrangements to its employees, the Board of Directors must perform appropriate due diligence. The minimum requirements for deferred compensation arrangements and related investments are as follows:

1. The benefit plan is offered only to credit union employees.


2. The credit union's legal counsel reviews the agreement to ensure compliance with the Internal Revenue Code and other applicable statutes, and issues a written opinion to that effect.
3. The credit union follows generally accepted accounting principles in accounting for the arrangement.
4. The benefits provided to the employee are reasonable and in proportion to the benefit received by the credit union in providing the plan. The credit union's Board of Directors must thoroughly review and approve the arrangement as part of an overall employee compensation program.
5. The plan does not result in an unsafe and unsound concentration of credit union assets in the plan-related investments. Related investments which exceed 15% of a credit union's net worth will be considered material for purposes of this determination. However, other factors including the risk profile of the institution and the adequacy of the net worth position must be considered and could significantly reduce the level of investment considered safe and sound.
6. The plan does not present a safety and soundness risk to future earnings. Documented analysis must include a review of the financial costs related to the program and the impact on future earnings.

Examiners will review and evaluate employee benefit arrangements and related investments for reasonableness and overall impact on the credit union's safety and soundness during the examination process.

Any questions regarding this bulletin should be directed to:

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